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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Johnny Jones,

Plaintiff

v.

Rivera, et al.,

Defendants

Case No.: 2:21-cv-01232-JAD-VCF

**Order Denying Motions and Dismissing
and Closing Case**

[ECF Nos. 1-2, 7]

Plaintiff Johnny Jones brings this civil-rights case under § 1983 for events he alleges occurred during his incarceration at High Desert State Prison.¹ On July 9, 2021, the Magistrate Judge ordered plaintiff to file an application to proceed *in forma pauperis* or pay the \$402 filing fee by September 7, 2021.² Jones appealed the order, and his appeal was dismissed.³ On October 15, 2021, the magistrate judge gave Jones a final extension until November 17, 2021, to file an application to proceed *in forma pauperis* or pay the \$402 filing fee.⁴ The deadline has passed, and Jones has not filed an application to proceed *in forma pauperis*, paid the \$402 filing fee, or otherwise responded to the magistrate judge's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.⁵ A court may dismiss an action with prejudice based on a party's failure to prosecute an action,

¹ ECF No. 1-1 (complaint).

² ECF No. 5.

³ ECF No. 11.

⁴ ECF No. 13 (order).

⁵ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

1 failure to obey a court order, or failure to comply with local rules.⁶ In determining whether to
2 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with
3 local rules, the court must consider several factors: (1) the public's interest in expeditious
4 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
5 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
6 availability of less drastic alternatives.⁷

7 I find that the first two factors—the public's interest in expeditiously resolving the
8 litigation and the court's interest in managing the docket—weigh in favor of dismissing this case.
9 The risk-of-prejudice factor also weighs in favor of dismissal because a presumption of injury
10 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
11 prosecuting an action.⁸ The fourth factor is greatly outweighed by the factors in favor of
12 dismissal, and a court's warning to a party that his failure to obey the court's order will result in
13 dismissal satisfies the consideration-of-alternatives requirement.⁹ Jones was warned that his case
14 would be subject to dismissal without prejudice if he failed to file an application to proceed *in*
15 *forma pauperis* or pay the \$402 filing fee by November 17, 2021.¹⁰ So, Jones had adequate
16 warning that his failure to file an application to proceed *in forma pauperis* or pay the \$402 filing
17 fee by the deadline would result in this case's dismissal.

18 Accordingly, IT IS HEREBY ORDERED that **this action is DISMISSED** without
19 prejudice based on Jones's failure to file an application to proceed *in forma pauperis* or pay the
20 \$402 filing fee in compliance with the Magistrate Judge's October 15, 2021, order; and
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24 ⁶ See *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to
comply with court order).

25 ⁷ *Malone*, 833 F.2d at 130.

26 ⁸ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

27 ⁹ *Malone*, 833 F.2d at 132–33.

28 ¹⁰ ECF No.13 (order).

1 Jones's motions for a preliminary injunction and temporary restraining order [ECF Nos.
2 1-2, 7] are **DENIED** as moot; and

3 The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS
4 CASE.

5 DATED: November 24, 2021

6 
U.S. District Judge Jennifer A. Dorsey